



**State of Tennessee**  
**Department of Children's Services**

**Administrative Policies and Procedures: 20.9**

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| <b>Subject:</b>     | <b>Court Advocate Program</b>                   |
| <b>Authority:</b>   | TCA §§ 37-10-301 et seq                         |
| <b>Standards:</b>   | None  |
| <b>Application:</b> | All Department of Children's Services Employees |

**Policy Statement:**

The Department of Children's Services shall provide court advocate services to minor youth under the age of eighteen (18) who choose to have an abortion but cannot obtain the consent of one parent for that procedure. On a statewide level, the department shall provide a toll free telephone number to convey information on court advocate services and access to court advocates established in each county. Additionally, DCS shall develop, maintain and distribute a brochure that explains the court advocate services. Designated personnel shall be available in each county to provide information and services to help minor youth gain access to the court system to request a judicial bypass waiver of the parental consent law.

**Purpose:**

The State of Tennessee mandates parental consent for the abortion decisions of pregnant minors. Minors, however, are given the opportunity to seek a bypass which waives the consent requirement for those minor females who cannot involve their parents. To benefit from the judicial bypass mechanism, the minor must appear before a judge and prove either that she is mature enough to decide whether to have an abortion or, that despite her immaturity, an abortion would be in her best interests. The Court Advocate Program will provide an advocate to assist the minor through the Judicial Bypass process.

**Procedures:**

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| <b>A. Establishment of a Toll Free Telephone Number</b> | DCS shall establish a toll free telephone number for the purpose of providing information on the parental consent law and the names and telephone numbers of the advocates in each county. |
| <b>B. Brochure</b>                                      | 1. DCS shall develop a brochure that explains the parental consent requirement and the process for obtaining a judicial bypass to waive the parental consent requirement.                  |

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|   | 2. DCS shall make these brochures available in all DCS offices.   |
| <b>C. Appointment of Court Advocates</b>                      | The Regional Administrator in each region shall ensure that there is a court advocate serving each county in the region at all times.   |
| <b>D. Responsibilities of Court Advocates</b>                 | <p>The court advocates shall:</p> <ol style="list-style-type: none"> <li>1. Provide copies of the official brochure with the parental consent requirement/judicial bypass waiver information to interested minors;</li> <li>2. Explain each topic listed in the brochure to interested minors;</li> <li>3. Offer opportunities for the minor to ask questions;</li> <li>4. Perform other duties as listed below if the young woman chooses to pursue a judicial by-pass.</li> </ol>   |
| <b>E. Pursuing the Judicial Bypass</b>                        | <ol style="list-style-type: none"> <li>1. If a minor youth chooses to pursue the judicial bypass process, the court advocate shall arrange to meet with her at the court to facilitate the filing of a petition requesting the judicial bypass.</li> <li>2. Minor youth may file a petition in any Juvenile or General Sessions Court having juvenile court jurisdiction in any county in Tennessee. She is not limited to her home county court.</li> <li>3. The court advocate shall advise the minor youth of her right to legal counsel to represent her in these proceedings and advise and remind the youth to request legal counsel at the time of filing out the petition.</li> <li>4. The court shall provide Legal counsel to the youth at no cost to the youth.</li> </ol> |
| <b>F. <u>Exception</u> to the Judicial Bypass Requirement</b> | There is no need to pursue a judicial bypass if a criminal <u>charge of incest</u> is pending against a parent of the minor youth. Minor youth in this situation can proceed to obtain any necessary services.  |
| <b>G. Options Counseling</b>                                  | If a minor youth voices any concerns or difficulties in making a decision about her pregnancy, the court advocate shall refer her to the local health department or family planning center for counseling on her options  |
| <b>H. Court Proceedings</b>                                   | <ol style="list-style-type: none"> <li>1. The court advocate may attend the court hearing with the minor youth unless she or her attorney requests that the court advocate not attend. The court advocate shall coordinate with the young woman's legal counsel as necessary.</li> <li>2. The court advocate shall not act in any way as a fact witness in any legal</li> </ol>   |

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|                           | proceedings, nor as an advocate of any position with respect to the minor's decision to terminate her pregnancy.   |
| <b>I. Payment</b>         | DCS <b>shall not</b> provide payment for abortion services. This applies to all minor youth in state custody and those who are not. Generally, minors who choose to have an abortion must provide their own funds or obtain financial assistance from the medical facility performing the abortion.  |
| <b>J. Confidentiality</b> | The Court Advocate shall not release the name of any minor youth who seeks help in obtaining a judicial bypass for the purpose of obtaining an abortion. The court advocate shall take all necessary, reasonable and customary precautions to ensure confidentiality of the youth and ensure that this information is not leaked throughout the local office and is kept from the general public.  |
| <b>K. Documentation</b>   | <ol style="list-style-type: none"><li>1. Court advocates are not required to document their activities while acting as a court advocate.</li><li>2. For non-custodial minor youth, these cases shall not be entered into TN Kids and no case file shall be established.</li><li>3. For custodial minor youth and those in guardianship, the case file may state that court advocate services were provided and may give the outcomes of the process. This is permissible since DCS files are confidential.</li></ol> |

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| <b>Forms:</b>                | <i>None</i>  |
| <b>Collateral Documents:</b> | <a href="#"><u>Information for Women Under 18 Who Are Pregnant</u></a> |